

	Officer Key Decision
	Report to the Strategic Director of Regeneration and Environment
AUTHORITY TO AWARD CONTRACT FOR THE KENSAL CORRIDOR IMPROVEMENT SCHEME (WORKS)	

Wards Affected:	Queens Park
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of a particular person (including the authority holding that information)”
No. of Appendices:	Two Appendix 1: List of Contractors (exempt) Appendix 2: Tender Evaluation Grid
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 The aim of this report is to provide information on the Kensal Corridor improvement scheme and authorisation to award to Marlborough Highways Limited under the Council’s existing highways framework contract, following completion of a mini-competition process within the contract.

2.0 Recommendation(s)

2.1 That the Strategic Director of Regeneration and Environment approves the award the contract for the Kensal Corridor Improvement Scheme works to Marlborough Highways Ltd.

3.0 Detail

3.1 Cabinet gave approval on 15th April 2019 for officers to invite tenders for a framework for the Highways Capital Scheme Programme, primarily for the delivery of the £20m footway investment programme 2019/20 to 2021/23.

3.2 Cabinet delegated authority to the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Environment to select contractor(s) and enter into agreement(s) with the contractor(s)

3.3 Contracts were awarded to Eurovia Infrastructure Limited, Marlborough Highways Limited and O'Hara Bros Surfacing Limited to deliver the £20m footway investment programme. The intention was also to use this contract for the delivery of future Council infrastructure projects.

3.4 There is a mini-competition process within this highway framework contract for the delivery of improvement schemes over £50k in value. Officers in Highways and Infrastructure and the Procurement teams manage this process.

3.5 Contractors were invited to submit their tenders under the mini-competition process in March 2020. The tender brief made it clear that the scheme would be delivered in phases and is dependent on funding availability, with the main funding source from Transport for London's (TfL's) Bus priority programme.

3.6 At this time, due to the Covid-19 pandemic, TfL withdrew funding for their programmes, with funding only being made available for low cost schemes that could be delivered quickly under the London Streetspace Programme. An evaluation was completed in May 2020, but there was no funding available to progress the work, and the procurement process was not completed.

3.7 In late 2020, TfL informed the Council that a reduced level of funding has been made available for the continuation of our Local Implementation Plan and Bus Priority programmes.

3.8 The 2020 procurement process was never formally terminated. Due to the time elapsed, and due to the fact that bidders were only required to keep their pricing available for 3 months, contractors were contacted again in February 2021 and asked to confirm their prices or advise on the new schedule of rates for Zone 4 and Zone 5 with the preliminaries, the quality evaluation remained as previously. This was specifically for improvements near Kensal Rise Overground station and the adjacent section of Kensal Rise, which provide the most benefits in relation to bus movements, accessibility, cycle infrastructure and greening. The revised bids for these sections were re-evaluated.

The Tender Process

3.9 The new contract will be let under the conditions of the existing highways framework contract, which uses an NEC4 form of contract. The contract will last for a period of 24 Months without extension.

- 3.10 Advertisements were placed on London Tenders Portal on 28th February 2020 to submit a quote. The bidders were provided with a specification and pricing template.
- 3.11 The tendering instructions stated that the contract would be awarded based on the 30% quality & 70% price and that in evaluating tenders, the Council would have regard to the following:

Quality Statement: to include how the scheme would be delivered considering resources to be used for the different phases of the scheme, size of working areas, site logistics and typical timeframes for completion; to include details of the resource to be allocated to it and a detailed programme of works.

Evaluation process

- 3.12 The tender evaluation was carried out by a panel of officers from Highways and Infrastructure.
- 3.13 All tenders had to be submitted electronically no later than 6th April 2020 by 12:00, Tenders were opened on 7th April 2020 and 3 valid tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.
- 3.14 The panel met on 22nd June 2020 and each submission was marked by the whole panel against the award criteria.
- 3.15 Following the halt in the tender process, framework contractors were contacted and invited to refresh their pricing. Revisions in pricing were due back by 19th February 2021 and the panel rescored pricing but not quality criteria.
- 3.16 The names of the tenderers are contained in Appendix 1. The scores received by the tenderers are included in Appendix 2. It will be noted that Tenderer B was the highest scoring tenderer. Officers therefore recommend the award of the contract to Tenderer B, namely Marlborough Highways.
- 3.17 Subject to the approval of the award, the contract will commence on 29th March 2021.

4.0 Financial Implications

- 4.1 Part 3 of the Council's Constitution states that the Strategic Director of Regeneration & Environment has delegated authority to approve the award of contracts for works valued at less than £5 million.
- 4.2 The estimated value of this contract is under this threshold.
- 4.3 A representative of Brent Financial Services did not attend the evaluation panel.
- 4.4 There is currently £0.62m of secured funding for the delivery improvements near Kensal Overground Station and the adjacent section of Chamberlayne Road estimated at a value of £1.1m over 2020/21 and 2021/22.
- 4.5 There is a £0.4m allocation from TfL's Bus Priority programme and £0.22 m from the LIP programme for the delivery of improvements near Kensal Rise Overground Station for 2020/21. We have also applied for an additional £0.25m of Bus priority

funding and plan to allocate £0.3m of TfL Local Implementation Plan funding for 2021/22.

- 4.6 Transport for London however, have experienced severe financial difficulty due to loss of income and future funding is dependent on their settlement with the Department for Transport.
- 4.7 It has been made clear in the mini-competition documents there is no obligation on the Council to deliver the complete scheme; that the project will be delivered in phases, and is dependent on funding availability. The Council will only order work to the value of the budgets that are made available.
- 4.8 The initial delivery phase will cost around £0.7m, although there are several stages within this that allow the project to conclude if required.
- 4.9 The Council will consider opportunities for funding contributions for additional phases of work through future TfL programmes, or potentially developer or capital budgets.

5.0 Legal Implications

- 5.1 The estimated value of this contract over its lifetime is below the threshold for Works contracts under the Public Contracts Regulations 2015 (the “PCR 2015”) and the award of the contract is therefore not governed in full by the PCR 2015.
- 5.2 The award is subject to the Council’s own Standing Orders in respect of Medium Value Contracts and Financial Regulations. Chief Officers have delegated to them power to award Medium Value Contracts in accordance with paragraph 9.5, of Part 3 of the Constitution.
- 5.3 Officers have used a framework to procure the recommended contract. The PCR 2015 allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the framework need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework and utilising the terms and conditions set out in the framework.
- 5.4 As the procurement is from a framework, there is no requirement for the Council to observe a 10-day standstill period under the PCR 2015 although the award of the contract will be subject to the council’s usual call-in process.

6.0 Equality Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Officers have been working with Queens Park ward councillors and the local community to address their concerns in relation to transport improvements on the Kensal Corridor area for a number of years.

7.2 The Cabinet Member for Environment and Cabinet Member for Regeneration, Highways & Planning, have been consulted during the development of the scheme and on using the highways framework for the delivery of works.

7.3 Further development and implementation of the scheme will continue to be in consultation and collaboration with local councillors and representatives of the local community.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service will be provided by an external contractor and there are no implications for Council staff arising from tendering the contract.

9.0 Public Services (Social Value) Act 2012

9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. This duty does not strictly apply to the proposed contract, as it is not a services contract. Nevertheless, Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 Social Value was not included as an evaluation criterion in this mini competition at this time.

Related Documents:

Kensal Corridor Delegated Approval Report – 23rd January 2020